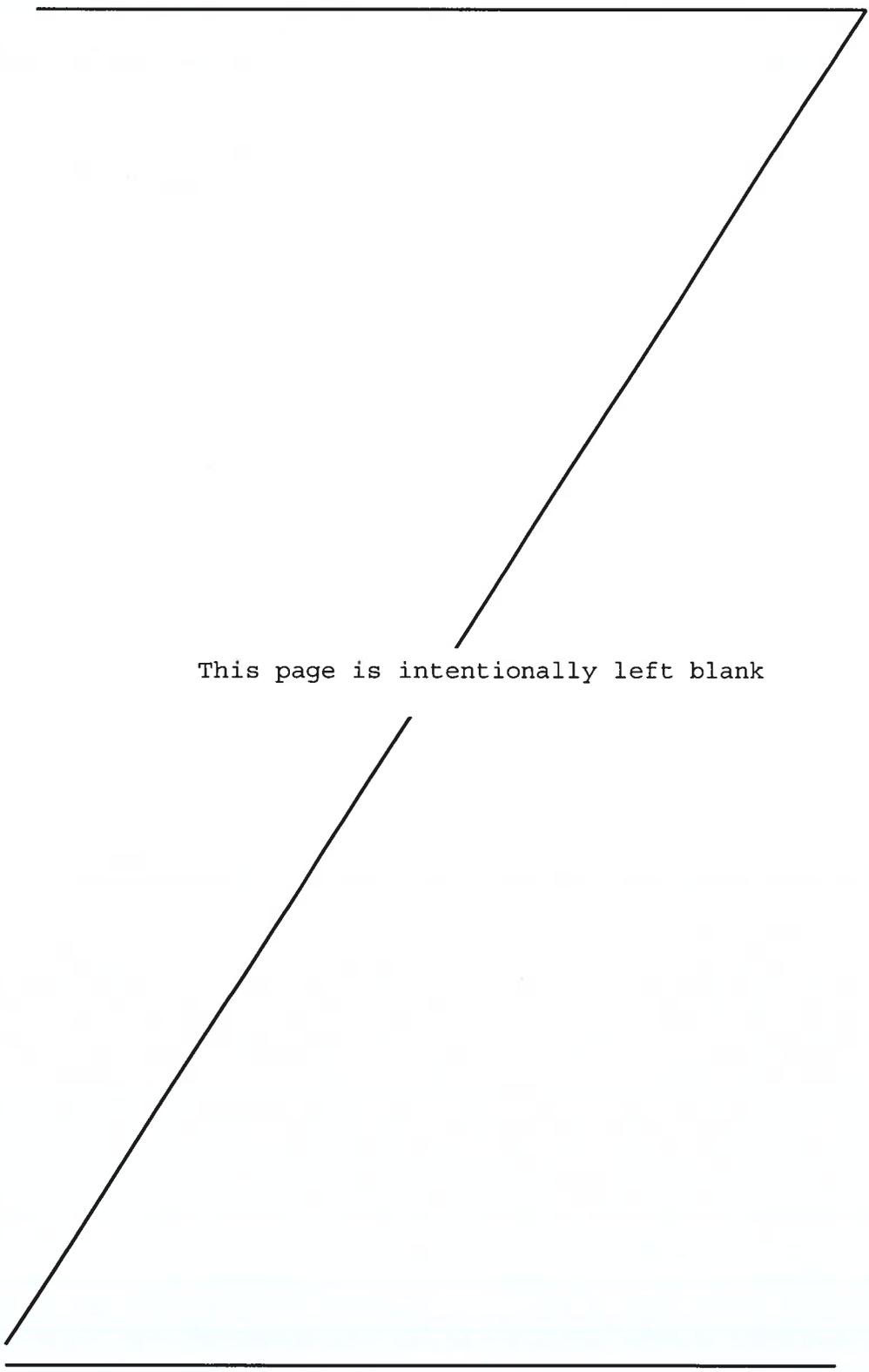


DEPARTMENT OF COMMUNITY SERVICES

Adoption of Chapter 8-10.1  
City and County of Honolulu Administrative Rules

SUMMARY

Chapter 8-10.1, City and County of Honolulu Administrative Rules, entitled "Section 8 Tenant Based Rental Assistance Emergency Housing Voucher Program", is adopted.

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TITLE 8

DEPARTMENT OF COMMUNITY SERVICES

CHAPTER 10.1

SECTION 8 TENANT BASED RENTAL ASSISTANCE  
EMERGENCY HOUSING VOUCHER PROGRAM

- §8-10.1-1 Purpose and Scope
- §8-10.1-2 Definitions
- §8-10.1-3 E.H.V. Eligibility
- §8-10.1-4 Establishment, Opening and Closing  
of Waiting List
- §8-10.1-5 Expiration and Extension of Voucher
- §8-10.1-6 Term of Lease
- §8-10.1-7 Portability of E.H.V.s
- §8-10.1-8 E.H.V. Services Fee

**§8-10.1-1 Purpose and Scope.** Pursuant to the American Rescue Plan Act of 2021, Pub. L. No. 117-2, and PIH Notice 2021-15 (HA), these rules cover tenant-based vouchers for persons experiencing homelessness or at-risk of homelessness, called Emergency Housing Vouchers (E.H.V.). Unless otherwise stated herein or in the foregoing authorities, Chapter 8-10 shall apply to E.H.V.s. [Eff **NOV 22 2021** ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA))

**§8-10.1-2 Definitions.** The following words and phrases as used in these rules shall have the meaning ascribed to them below, unless it is apparent from the context that a different meaning is intended. Words not specifically defined herein shall have the meaning ascribed to them under Chapter 8-10.

"At-risk of homelessness" means:

- (1) An individual or family who:
  - (A) Has an annual income below thirty percent of median family income for the area, as determined by HUD;
  - (B) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition; and
  - (C) Meets one of the following conditions:
    - (i) Has moved because of economic reasons two or more times during the sixty days immediately preceding the application for homelessness prevention assistance;
    - (ii) Is living in the home of another because of economic hardship;
    - (iii) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within twenty-one days of the date of application for assistance;
    - (iv) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
    - (v) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per

room, as defined by the U.S. Census Bureau;

- (vi) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  - (vii) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the Agency's approved consolidated plan.
- (2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- (3) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

"Continuum of Care" or "CoC" means the group organized to carry out the responsibilities required under 24 C.F.R. Part 578 and that is composed of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses,

advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and are available to participate.

"E.H.V. eligibility categories" means: individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or (4) recently homeless.

"Emergency Housing Vouchers" or "E.H.V." means tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. §1437f(o)) in the form of housing vouchers, authorized by the American Rescue Plan Act of 2021, guidance for which is provided in Notice 2021-15. Eligibility for E.H.V.s is limited to individuals and families who fall within one of the E.H.V. eligibility categories, as determined by, and referred to the Agency by, the Continuum of Care.

"Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking" includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premise during the ninety-day period preceding the date of the request for transfer. For purposes of this definition:

"Domestic violence" includes felony or misdemeanor crimes of violence committed by:

- (1) A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim"

includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);

- (2) A person with whom the victim shares a child in common;
- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
- (5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

"Dating violence" means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (A) The length of the relationship;
  - (B) The type of relationship; and
  - (C) The frequency of interaction between the persons involved in the relationship.

"Sexual assault" means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

"Human trafficking" includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102). These are defined as:

- (1) Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen years of age; (and)
- (2) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

"Homeless" means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - (A) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
  - (B) An individual or family living in a supervised publicly or privately

- operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
- (C) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (A) The primary nighttime residence will be lost within fourteen days of the date of application for homeless assistance;
  - (B) No subsequent residence has been identified; and
  - (C) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.
- (3) Unaccompanied youth under twenty-five years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (A) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42

U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

- (B) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the sixty days immediately preceding the date of application for homeless assistance;
- (C) Have experienced persistent instability as measured by two moves or more during the sixty-day period immediately preceding the date of applying for homeless assistance; and
- (D) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

"Notice 21-15" means PIH Notice 2021-15(HA) issued by the U.S. Department of Housing and Urban Development dated May 5, 2021.

"Recently homeless" means individuals and families who have previously been classified by a member agency of the CoC as homeless but are not currently homeless as a result of homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the CoC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of

housing instability. Examples of households that may be defined as recently homeless by the CoC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing.

"Services fee" means a one time allotment to the Agency to address the needs of E.H.V.-eligible individuals and families in accordance with Notice 2021-15. [Eff **NOV 22 2021** ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA); 24 C.F.R. §578.3)

**§8-10.1-3 E.H.V. Eligibility.** (a) Annual income for E.H.V.-eligible applicants shall not exceed very low income limits for the calendar year when the application is received.

(b) The CoC or its designee must determine whether E.H.V. applicants fall within one of the EHV eligibility categories and refer eligible applicants to the Agency through the coordinated entry system.

(c) Partnering providers may also determine eligibility under the E.H.V. eligibility categories and refer applicants outside of the CoC coordinated entry system if:

- (1) The coordinated entry system does not have a sufficient number of eligible applicants; or
- (2) The coordinated entry system does not identify individuals or families who may be eligible for assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

(d) Preferences for admission shall be established in a Memorandum of Understanding between the Agency and CoC.

(e) A family shall be ineligible for admission to the E.H.V. program if any household member:

- (1) Has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the

premises of federally assisted housing;  
or

- (2) Is subject to a lifetime registration requirement under any state sex offender registration program. [Eff NOV 22 2021 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA); 24 C.F.R. §982.553)

**§8-10.1-4 Establishment, Opening, and Closing of Waiting List.** (a) The waiting list established pursuant to §8-10-9 shall not be used for E.H.V.s.

(b) Eligible applicants referred by the CoC or partnering providers who are unable to obtain an E.H.V. due to an insufficient number of E.H.V.s shall be placed on an E.H.V. waiting list.

(c) If the Agency determines that the existing E.H.V. waiting list contains an adequate pool for use of available E.H.V.s, the Agency may at any time stop accepting or processing new applications, or may accept only applications meeting criteria adopted by the Agency.

(d) The Agency is not required to provide public notice of opening, closing, or reopening the E.H.V. waiting list.

(e) In selecting individuals and families from the E.H.V. waiting list to participate in the E.H.V. program, the preferences in §8-10-9 shall not apply. Preferences shall be in accordance with §8-10.1-3(d). [Eff NOV 22 2021 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA); 24 C.F.R. §§982.204, 982.206)

**§8-10.1-5 Expiration and Extension of Voucher.** The E.H.V. shall expire at the end of 120 days from the date of issuance, but a family may submit to the

Agency a written request for extension pursuant to §8-10-11. [Eff NOV 22 2021 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA))

**§8-10.1-6 Term of Lease.** The initial term of the lease shall begin on a date stated in the lease, and shall continue for at least one year therefrom. As an exception to the foregoing, the initial term of the lease may be less than one year, but not less than six months, if a shorter term would improve housing opportunities for the family, regardless of whether a term shorter than one year is the prevailing local market practice. [Eff NOV 22 2021 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA))

**§8-10.1-7 Portability of E.H.V.s.** An applicant family may move immediately under portability. [Eff NOV 22 2021 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; Pub. L. No. 117-2 §3202; P.I.H. Notice 2021-15(HA))

**§8-10.1-8 E.H.V. Services Fee.** The services fee shall be used for the following activities authorized by Notice 2021-15, with limitations as set forth below:

- (1) Housing search assistance provided by the CoC shall be reimbursed by the Agency.
  - (A) Housing search assistance shall include, at a minimum:
    - (i) Helping families identify potentially available units during their housing search, including physically accessible

units with features for family members with disabilities, as well as units in low-poverty neighborhoods;

- (ii) Providing transportation assistance and directions to potential units;
  - (iii) Conducting owner outreach;
  - (iv) Assisting with the completion of rental applications and PHA forms; and
  - (v) Helping expedite the E.H.V. leasing process for the family.
- (B) Subject to the availability of funds, a family may receive assistance for more than one rental unit.
- (2) Security deposits requested by the CoC or partnering provider shall be paid by the Agency directly to the landlord in an amount not to exceed the lowest of:
- (A) Two months rent to owner;
  - (B) The maximum security deposit allowed under applicable state and/or local law; or
  - (C) The actual security deposit required by owner.
- The security deposit shall be paid on behalf of the family and any balance returned shall belong to the family.
- (3) Utility deposits and/or utility arrearages requested by the CoC or partnering provider shall be paid by the Agency directly to the utility company. Utility deposits and/or utility arrearage shall be paid on behalf of the family and any balance of the utility deposit returned shall belong to the family.
- (4) Payments for security deposits, utility deposits, and/or utility arrearages shall not exceed a total combined sum of \$3,000.00 per family, and shall be limited to one rental unit per family.

- (5) Application fees and renter's insurance, if required by prospective landlords and the lease, respectively, and requested by the CoC or partnering provider, shall be paid by the CoC and reimbursed by the Agency up to a total aggregate sum of \$300.00 for application fees and renter's insurance combined, per family. Subject to the availability of funds, a family may receive assistance for more than one rental unit.
- (6) Tenant readiness services provided by the CoC shall be reimbursed by the Agency. Subject to the availability of funds, a family may receive assistance for more than one rental unit.
- (7) Reimbursement from the services fee to the CoC for costs authorized by this section shall be paid by the Agency upon receipt of documentation as required by the Agency.
- (8) The services fee is available for an E.H.V. applicant family exercising portability, subject to the availability of funds. Reimbursement by the Agency to the Receiving PHA may not exceed the actual cost of the services and assistance provided to the applicant family, or \$1,750, whichever is lower.

The services fee funding must be initially used for the defined eligible uses and not for other administrative expenses of the E.H.V. program. To the extent allowed by HUD, beyond the initial use, the Agency shall use the remaining funds for E.H.V. purposes. The services fee may never be used for the Housing Choice Voucher program. [Eff **NOV 22 2021**]  
] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302; ROH §6-23.3; P.I.H. Notice 2021-15(HA))

DEPARTMENT OF COMMUNITY SERVICES  
CITY AND COUNTY OF HONOLULU

Chapter 10.1, Section 8 Tenant Based Rental Assistance Emergency Housing Voucher Program, was adopted on October 29, 2021, following a public hearing on October 29, 2021, after public notice was given on September 28, 2021, in the Honolulu Star-Advertiser Public Hearings.

These Rules shall take effect ten days after filing with the City Clerk of the City and County of Honolulu.



\_\_\_\_\_  
Director Designate  
Department of Community Services

APPROVED:



\_\_\_\_\_  
Mayor  
City and County of Honolulu  
Date: November 12, 2021

FILED:



\_\_\_\_\_  
GLEN I. TAKAHASHI  
City Clerk  
Date: November 12, 2021

APPROVED AS TO FORM  
AND LEGALITY:



\_\_\_\_\_  
Deputy Corporation Counsel

KATHLEEN A. KELLY